

allowable condition. If for any reason the claims are not believed to be in full condition for allowance, Applicant respectfully requests the constructive assistance of Examiner pursuant to MPEP 707.07(j), and 706.03(d) in order that this application be placed in allowable condition as soon as possible.

REMARKS

3. TRAVERSE OF REJECTION OF CLAIMS UNDER 35 USC SECTION 112 FIRST PARAGRAPH.

Claims 1, 4 & 7 were rejected as failing to comply with the written description requirement, as the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

This rejection is traversed.

Examiner asserts that the specification fails to provide sufficient written basis to claim an entire species within the broad claim terminology "...infectious diseases caused by drug-resistant strains of bacteria, bacterial infections in a human or animal host, solvent extraction of a component of a pepper plant" on the basis of discovery of one type of solvent extraction of pepper to treat one type of infectious disease caused by a drug-resistant strain of bacterial.

First of all, the Examiner "one type" assertions in the above are in error.

It is clear from the specification that the pepper compounds are broad-spectrum antimicrobials among other things. The specification has disclosed other therapeutic properties of these same compounds beyond antibacterial, and has incorporated by reference other patents which also disclose broad-spectrum antimicrobial properties to include antifungal properties and wart treatment. See Abstract (p.19), Specification (p. 5.3.).

The instant specification further discloses more than seven specific cases, and referenced several other cases having been successfully treated with extracts of differing pepper plant species, differing solvents, and differing conditions, all with an astounding, and unprecedented level of effectiveness as compared to what practitioners of the art might expect with prior art treatments.

Clinical demonstrations of extracts of red pepper, black pepper, ginger, paprika, and isolated capsaicin using water, alcohol (ethanol, isopropal), acetone, pure oleoresin and others used separately and in combination against an array of microbes and types of microbial infection are found within the specification.

As such, Applicant asserts that the specification provides sufficient representative species to claim any genus as to plant source, type of solvent for extraction, and type of bacterial infection being treated, and that the inventor was in possession of the claimed invention as of the filing of the application.

As such, all rejection of the claims 1, 4, and 7 as to failure of the specification to comply with the written description requirement is not proper and should be withdrawn with allowance of the claims 1, 4, and 7 along with their appended dependant claims.

The patent specification is explicit as to specific formulations used in actual case studies.

A person skilled in the art is thereby enabled to both produce, and apply any of the formulations toward the treatment of diseases as specifically described, or to those related.

Beginning with production of a crude extract of pepper; a very simple, quick, and inexpensive procedure, a practitioner is at once well equipped with a remarkably effective medical treatment that is broad-spectrum in nature. From there, a practitioner has the further option of isolation or refinement of chemical components of the extract in order to optimize use toward more specific conditions, if so desired.

4. TRAVERSE OF REJECTION OF CLAIMS UNDER 35 USC SECTION 112 SECOND PARAGRAPH.

Claims 1, 4, 5, & 7 were rejected as being indefinite for failing to particularly point out, and distinctly claim the subject matter which applicant regards as the invention with use of the phrase "or an equivalent".

This rejection is traversed.

The phrase "or an equivalent" is intended to more clearly define the broader scope of the claimed invention, and finds basis in the description to include equivalent botanical sources such as ginger species, and synthetic and artificial

analogs and compounds modeled after pepper components that are not "obtainable from pepper" per se, yet are designed to serve a similar purpose. See specification p.8 para6 – p.12.

Finding basis in the specification, the phrase "or an equivalent" in the above claim language is proper.

Therefore this rejection is not proper and should be withdrawn and the claims 1, 4, 5, & 7 allowed.

5. TRAVERSE OF REJECTION OF CLAIM 4 UNDER 35 USC SECTION 102

Claims 4 was again rejected as being anticipated by Yamaguchi et. al., or Dorman et. al., who reported limited antibacterial activity in vitro of piperine, and volatile oils of black pepper respectively.

This rejection is again traversed.

Applicant shall again reiterate that neither piperine, nor volatile oils of pepper constituent "phytoalexins" as in claim 4. Examiner assertion that these constitute identical chemical compositions is entirely unfounded.

Therefore this rejection should be withdrawn.

The invention as claimed is therefore novel, as the cited references fail to identify all elements of the invention as claimed, and should be withdrawn and the claims allowed.

CLAIMS